IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

RFA NOs.280 & 281 Of 2000.
Judgment reserved on : 29.6.2007.
Date of decision: August 20th, 2007.

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1. RFA No.280 of 2000.

State of H.P and Another. ……. Appellants.

Vs.

Smt. Chander Prabha Batta. ……. Respondent.

For the appellants: Mr. V.K. Verma, Addl. Advocate General.

For the respondent: Mr. R.K. Gautam, Sr. Advocate with Mr. Anurag Sharma, Advocate.

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2. RFA No.281 of 2000.

Smt. Chander Prabha Batta. …… Appellant.

Vs.

State of H.P. and Another. …… Respondents.

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The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? Yes.

For the appellant: Mr. R.K. Gautam, Sr. Advocate with Mr. Anurag Sharma, Advocate.

For the respondents: Mr. V.K. Verma, Addl. Advocate General.

Surinder Singh, J:

Both these appeals have arisen from the award passed in Reference petition No. 21-S/2 of 1997/96, dated 6.5.2000, passed by the learned Additional District Judge, whereby the reference petition filed by the appellant Smt. Chander Prabha Batta was allowed.

The facts as noted in RFA No. 280 of 2000 in brief, are that the State PWD had constructed Solan Bye Pass road on Kalka-Shimla NH-22, over the land comprised of Khasra

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Whether reporters of local Papers may be allowed to see the judgment? Yes.

No.2174/1592/1, measuring 431 Sq. meters owned by the respondent in village Saproon, District Solan, without the proper acquisition of the land. Therefore, the respondent filed CWP No. 1287/1993. A direction was passed by this court to acquire the said land. In pursuance thereof, a notification under Section 4 of the Land Acquisition Act, 1984 (in short the Act) was issued on 18.8.1994 and was published in Rajpatra on 17.9.1994 alongwith two daily newspapers on 10.9.1994 and inviting the objections under Section 9 of the Act. Ultimately, an award was passed by the Collector on 28.2.1996, thereby awarding an amount of Rs.50/- per Sq. Meters with statutory interest etc.

The respondent felt aggrieved and dissatisfied by the said award accordingly filed a reference petition under Section 18 of the Act, for its determination by the District Judge. On the pleadings of the parties, the learned Additional District Judge framed the following issues on 4.6.1999:-

(1) Whether the Land Acquisition Collector has not assessed the proper value of the land as claimed? ...OPP.

(2) To what amount of enhanced compensation, if any, is the petitioner entitled? ...OPP

(3) Relief.

After considering the entire matter, the Additional District Judge, Solan held that the amount was not properly assessed and awarded an amount of Rs.568/- per Sq. Meters, irrespective of the category of land. In addition to the market value, the respondent was held entitled to solatium @ 30% on

the enhanced amount of compensation and interest @ 12% from the date of notification under Section 4 of the Act till the award of the Collector besides interest @ 9% from the date of possession till the expiry of one year and thereafter @ 15% P.A. till payments qua the enhanced amount is paid.

Thus, feeling aggrieved and dissatisfied by the impugned award, the State-appellant has filed the instant appeal, on the ground that the evidence of the respondents was not appreciated in the right perspective and the statutory interest was wrongly awarded from the order of possession.

The respondent has also assailed the impugned award by filing appeal (RFA No.281 of 2000); contending that there is enough material like copies of awards and copies of sale deeds by which it has been proved that the value of the land in the area, where the land in dispute is situated, was higher than the value assessed by the learned Additional District Judge. Accordingly, claimed an amount of Rs.1100/- per square meter.

I have heard Mr. V.K. Verma, learned Additional Advocate General and Mr. R.K. Gautam, learned Senior Advocate, duly instructed by Mr. Anurag Sharma, learned Advocate and have examined the evidence on record.

To prove her case, the respondent Chander Prabha, did not appear as a witness, however, she examined her husband Shri Sushil Kumar (PW1) who is a property dealer and was also holding her General Power of Attorney (Ext.PW1/A). According to him, the acquired land is 150 meters away from the Bus- stand and its value should have been Rs.10,000/- to Rs.12,000/- per Square

meter at the time of acquisition. Shri Chain Singh Thakur, Registration Clerk has proved the copies of sale deeds Ext.PW2/A,Ext.PW2/B, Ext.PW2/C and Ext.PW2/D, from the official records. The above Sale deeds can be tabulated as under:-

Sl.No.	Sale Deed	Executed on	Area	Location	Consideration	Vender/ Vendee.
1.	Ext.PW2/A	20.5.93	176 Sq.Mtr.	Saproon revenue Estate	One Lakh	Nathi Ram PW5
2.	Ext.PW2/B	27.10.94	107 Sq. Mtrs.	Saproon	57,000/-	Daulat Ram PW3
3.	Ext.PW2/C	7.4.95	83 Sq. Mtrs.	Saproon	44,200/-	Prem Chand PW4
4.	Ext.PW2/D/ Ext.PW6/A.	39.9.93	44 Sq. Mtrs.	Thodo Revenue Estate	80,000/-	Ram Nath PW6

According to PW5 Nathi Ram, the land involved in Ext.PW2/A was sold by him for a consideration of Rs. One Lakh as shown in the Sale Deed. It is situated below the National Highway and Sunder Cinema. Daulat Ram (PW3) is a vendee of the land shown in Sale Deed Ext.PW2/B. This land is situated below the railway line and was purchased by him for constructing a house. Prem Chand (PW4) is the Vendor. According to him the land in Ex.PW2/C is also situated below the railway line. Ram Nath (PW6) is the vendee. The land purchased by him is near the District Courts vide deed Ext.PW2/D = Ext.PW6/A in Thodo revenue Estate. The respondent has placed on record self-prepared map Ext.PW1/B to show the location of acquired land, which according to PW1 is nearer to the New Bus Stand.

The first three sale instances are in the same revenue estate and are located almost on the same side where the impugned land is situated, and the value of each of the land involved in the above sales comes between Rs.532/- to Rs.568/- approximately per square meter, but the location of land referred in the sale deed Ext.PW2/A=PW6/A is in another revenue estate and is nearer to the District Court its value comes to about Rs.1818/- per square meter and the area is a small portion of 44 square meters, if reasonable deduction of 50% is made because of its location Terrain and development charges, it will also come to about Rs.540/- per square meter at the relevant time. The respondent has produced on record only one sale instance Ext.RA, wherein vendor is Ganga @ Suman, who sold 49 square meters of the area on 26.11.1993 in Mauja Saproon for Rs.2000/-. The perusal of the narration therein makes the consideration doubtful as only Rs.500/- were paid before the Registrar and Rs.1500/- were stated to have been paid earlier at home and its exact location from the acquired land and the National Highway is not known, therefore, this was rightly ignored.

Further the respondent has placed its reliance on the awards passed by the District Judge. Ext.PX is the copy of award dated 1.5.92, whereby the value of the land was assessed @ 950/- per square meter, but it pertains to the land situated at Salogra on the National Highway, which is about 18 K.M. away from the impugned land, which has its own advantages and disadvantages. Ext.Py is the another award passed by the

District Judge on 15.9.92, fixing the market value of the land @ 950 per sqaure meters, for the land situated in "Jawahar Park" for the construction of Telephone Exchange, which is in the heart of town. Whereas, the impugned land is down below the railway line acquired for widening the Solan Bye Pass road.

Thus, it is quite clear from the above scrutiny of the evidence that the respondent has failed to prove that the value of the land acquired at the relevant time was Rs.10,000/- or Rs.12,000/- per square meter as stated by PW1 or Rs.1,000/- per square meter as claimed in appeal.

Thus, after having given my thoughtful consideration to the evidence on record, particularly, looking at the sale instances referred above, which were proximate to the time of the notification issued under Section 4 of the Act and the location of land, the learned Additional District Judge has rightly assessed the market value of the impugned land @ Rs.568/- per square meter irrespective of the nature of land, awarding solatium and statutory interest. There is no ground born out from the record to enhance the amount as claimed by the respondent in her appeal RFA No.281/2000, nor there is any justifiable ground to reduce the awarded amount by reference court as challenged by the State, in its appeal (RFA No.280 of 2000).

Thus, the impugned award passed by the learned Additional District Judge, is upheld, however, it is clarified that the interest @ 9% awarded under Section 28 of the Act awarded by the reference court from the date of possession

would be paid from the date when the possession is taken under the Act, which in no case can be before issuance of the notification under Section 4 of the Act in the circumstances of the case. **[Please see 2002(3) Shiml.L.C. 45, F.B.]**

Consequently, for foregoing reasons, both the appeals RFA No.281/2000 and RFA No.280/2000 are dismissed with costs with the above clarification regarding the statutory interest, awarded under Section 28 of the Act.

The matters stand accordingly disposed of.

August 20th,2007.
(Pds)

(Surinder Singh)
Judge.